

ARTICLE APPEARED
ON PAGE 3-DWASHINGTON TIMES
13 June 1986

Spies, traitors, and justice

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No one has been convicted and executed for violations of the Espionage Act since Julius and Ethel Rosenberg in 1953. In part this is due to Supreme Court decisions in the 1970s which required legislatures to set specific guidelines for when capital punishment could be invoked.

Since then, the federal government has not sought the death penalty for such acts as selling or giving U.S. secrets to a foreign power. A senior Justice Department official tells me the administration is seeking legislative changes so that the death penalty might again be imposed in these cases.

But there is another dimension to the proliferation of men and women who barter the security of their nation away to its enemies. It is the blurring of definitions.

The conviction of Ronald Pelton and the continuing trials of members of the John Walker family and others are based on charges that they violated the Espionage Act. The press refers to them collectively as "spies." But people who do what these are accused of doing are not spies in the classical sense. They are traitors, and they ought to have been tried for treason.

A spy is defined as a person who seeks information from another country to benefit his own country. Espionage is the practice of spying.

Treason, however, is defined by the dictionary as "a betrayal of one's country," and by Article III, Section

3 of the Constitution as "giving aid and comfort" to the enemies of the United States.

Treason has come to be invoked only in time of war, but the Constitution does not limit it to wartime. The Rosenbergs were convicted of selling atomic military secrets during a period when the United States was not at war with the Soviet Union. Those now being tried, and Pelton, who was convicted, were charged with selling U.S. military secrets to the Soviets. To call these people "spies" conveys respectability upon them.

Essayist Otto Scott faults novelists like John le Carre for drawing a moral parallel between spies and traitors. "From the first," says Mr. Scott, "these novels pretended to deal with international intrigue, but

actually stressed a loss of certainty and principle in the West, confused spying with treason, and elevated treason to the status of spying. Critics fell over each other in lavishing superlatives on Carre's fictions. After their introduction in the early 1960s, it became a fictional stereotype that our intelligence agents are no better than those used by the KGB, the Bulgarian secret police, or the dread instruments of Red China, Cuba, Yugoslavia, and other cruel, left-wing governments. American 'spy' novels now argue that Washington orders the murder of American citizens as casually as the Kremlin disposes of dissidents."

Few crimes exceed selling out one's own country and placing its liberties in jeopardy. Traitors should be executed instead of

imprisoned for the rest of their lives at the expense of the taxpayers.

The Justice Department says until 1965, most "espionage" cases were ideological. Those who sold or gave secrets to a foreign government did so because of their belief that the foreign power was better than the United States. Between 1966 and 1975 not a single case of espionage was successfully prosecuted in federal court. This was due, at least in part, to the government's reluctance to expose classified information and the way it is gathered.

Since 1975, successful prosecutions or the disposal of cases "favorable to the government" (43 out of 44) have increased rapidly, but the motivations have changed. Most traitors today are driven by a need for money and not by ideology.

Whatever the motivation, capital punishment might deter future treasonous acts. It would reduce the available pool of traitors interested in selling out America for a few thousand dollars.

Cal Thomas is a nationally syndicated columnist.